

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) 8:06CR312  
Plaintiff, )  
vs. ) ORDER  
JAVIER GALVAN-DUQUE and )  
MARTIMIANO TAMAYO, )  
Defendants. )

This matter is before the court on the motion to continue by defendant Martimiano Tamayo (Tamayo) (Filing No. 74). Tamayo seeks a continuance of the trial of this matter which is scheduled for February 26, 2007. Tamayo's counsel represents that counsel for the government has no objection to the motion. Tamayo's counsel represents that Tamayo consents to the motion and Tamayo will file an affidavit wherein he acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Upon consideration, the motion will be granted. **Trial will be continued as to all defendants awaiting trial.**

**IT IS ORDERED:**

1. Tamayo's motion to continue trial (Filing No. 74) is granted.
2. Trial of this matter **as to all defendants** is re-scheduled for **April 16, 2007**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **February 15, 2007 and April 16, 2007**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 15th day of February, 2007.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge